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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,335	02/06/2004	Robert Donovan	PTG 02-83-5	5268
23531	7590	12/01/2005	EXAMINER	
SUITER WEST SWANTZ PC LLO 14301 FNB PARKWAY SUITE 220 OMAHA, NE 68154			BLAKE, CAROLYN T	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/774,335	DONOVAN ET AL.
	Examiner Carolyn T. Blake	Art Unit 3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 08 September 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) 23,24,37,38 and 43-45 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-22,25-36 and 39-42 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06 February 2004 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Group I and Species III in the reply filed on September 8, 2005 is acknowledged.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 204, 301. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly

those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

4. The abstract of the disclosure is objected to because it contains legal language such as the word "comprises" (line 1). Correction is required. See MPEP § 608.01(b).

5. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

#### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

7. Claims 1-5, 11, 12-16, 22, 25-30, 36, 39, 40, and 42 are rejected under 35 U.S.C. 102(a) as being anticipated by Snodgrass, Jr. (6,739,231).

Snodgrass, Jr. discloses a tensioning mechanism for a band saw as claimed including an upper band wheel (86) comprising: a tension spring assembly (79) comprising a tension spring, a fine adjustment assembly (81), and a plunger (45); a cam assembly comprising a cam (76) a cam actuation member (44), a pin (62), and a cam actuator (48); a cover assembly (20); a handle (64); an index indicator (adjustment orifices 30 with pin 70); and a securing assembly.

8. Claims 40 and 41 are rejected under 35 U.S.C. 102(a) as being anticipated by Legler et al (4,356,750).

Legler et al discloses a tensioning mechanism as claimed including an upper band wheel (22) operationally engaging a band saw blade (30), comprising: a cover assembly (including 88, 102, and 108) including a biasing assembly (120) which enables a user to selectively engage the cover assembly in an index position (note the change in these members from FIG 4 to FIG 5); and an index indicator (location of handle 90) coupled with the cover assembly, the index indicator for indicating the index position for the cover assembly, wherein the index indicator enables the quick selection by the user of the amount of tensioning force to be applied to the band saw blade (30).

#### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 6-10, 17-21, 31-35, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snodgrass, Jr. as applied to claims 1, 12, 26, and 40 above, and further in view of Stollenwerk et al (5,261,304).

Snodgrass, Jr. discloses a tensioning mechanism substantially as claimed, but fails to disclose the biasing assembly as claimed. Stollenwerk et al disclose a mechanism for adjusting wherein a biasing assembly including a spring enables selective engagement. The Stollenwerk et al device provides for a fast change of position. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the pin and orifice adjustment assembly of the Snodgrass, Jr. device with the spring biased adjustment assembly of the Stollenwerk et al device for the purpose of quicker adjustment.

This combination still fails to disclose a visual marker as claimed. However, the examiner takes Official notice it is old and well known in the art to use a visual marker in order to positively identify available positions. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide visual markers on the Snodgrass-Stollenwerk combination for the purpose of positively identifying available positions.

### ***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn T. Blake whose telephone number is (571) 272-4503. The examiner can normally be reached on Monday to Friday, 8:00 AM to 5:30 PM, alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on (571) 272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CB

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November 22, 2005

*an*  
Allan N. Shoap  
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